

The 17th December, 1982

No. 9(1) 82-6 Lab/11822.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Piyush Art Printers, Plot No. 91, Sector 6, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 224/1981

between

SHRI SIRI CHAND SAINI, WORKMAN AND THE MANAGEMENT OF M/S PIYUSH ART
PRINTERS, PLOT NO. 91, SECTOR 6, FARIDABAD

Present :—

Shri Jai Raj Singh, for the management.

Nemo, for the workman.

AWARD

The Governor of Haryana referred the following dispute between the workman Shri Siri Chand Saini and the management of M/s Piyush Art Printers, Plot No. 91, Sector 6, Faridabad, by order No. ID/FD/60/81/31991, dated 3rd July, 1981, to this tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Siri Chand Saini was justified and in order ?
If so, to what relief is he entitled ?

Notices of the reference were sent to the parties. The workman appeared but the management did not appear and *ex parte* award was passed on 28th September, 1981. Later on by order dated 11th June, 1982 in Misc. application No. 23 of 1981, this award was set aside and the case was fixed for written statement of the management as the workman adopted his demand notice as claim statement. Thereafter the workman failed to appear on three consecutive dates. Finally both the parties did not appear in the case. Therefore, it was dismissed for non-prosecution. In view of the above, I pass my award that the parties are not interested in pursuing the present reference.

Dated the 3rd November, 1982.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 1160, dated the 11th November, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-6Lab/12166.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Bharat Carpets Ltd., Gurukul Industrial Area, Amar Nagar, Faridabad :—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 236/1981

between

THE WORKMEN AND THE MANAGEMENT OF M/S BHARAT CARPETS LTD., GURUKUL
INDUSTRIAL AREA, AMAR NAGAR, FARIDABAD

Present :—

Shri Mohit Kumar Bhandari, for the workman.

Shri S. K. Sharma, for the management.

AWARD

The Governor of Haryana referred the following dispute between the management of M/s Bharat Carpets Ltd., Gurukul Industrial Area, Amar Nagar, Faridabad, and its workmen by order No. ID/FD/78/81/36063, dated 31st July, 1981, to this tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the workmen are entitled to the grant of bonus @ 20%? If so, with what details?

Notice of the reference were sent to the parties who appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my order dated 26th October, 1981 :—

(1) Whether the present reference is bad as it does not state the year of claim?

(2) Whether Bharat Carpets Karamchari Union giving the demand notice has no *locus standi*?

(3) Whether the reference is bad in view of settlement dated 16th October, 1980?

And the management was called upon to lead evidence on issue No. 1 and 2. The management examined Shri Ram Chander Gupta, Clerk, O/O the Deputy Labour Commissioner, Haryana, Faridabad as MW-1. The management summoned General Secretary of the union with record but none appeared despite service of the notice on the union. Therefore, the management closed its evidence. Then the case was fixed for evidence of the workmen who failed to produce evidence and the same was closed-by order. An application was made on behalf of the workmen for further evidence and the same was disposed off by my order dated 22nd September, 1982. Argument on the reference heard *ex parte* because none appeared on behalf of the workmen.

MW-1 deposed that he had brought summoned record. There was settlement under section 12(3) of the Industrial Disputes Act. Settlement was dated 16th October, 1980. Photo copy of the settlement was Ex. M-1, and settlement was signed by the Deputy Labour Commissioner, Faridabad. Authority letter was submitted by the workers at the time of settlement which was sent to Labour Commissioner along with settlement,—*vide* letter No. 3334, dated 23rd November, 1980. In cross-examination, he replied that a letter copy of which was Ex. W-1, was on the file. It was signed by Shri Hari Lal. Settlement Ex. M-1 was arrived at on a demand notice dated 4th August, 1980 for bonus which was claimed at the rate of 20%. The demand notice was signed by Shri Jai Kishan Yadav, President and Pritam Singh, General Secretary. He was not aware if the management had shown balance sheet and production record at the time of settlement. In the file, there was no registration number, membership or election record of the union.

I have gone through the settlement Ex. M-1. In the recital, it is made that the workers had submitted demand notice dated 4th August, 1980 for bonus along with some other demands mentioned in the settlement. The settlement was arrived at in the presence of Deputy Labour Commissioner, Faridabad. On behalf of the workmen, there appeared 14 signatures. The settlement was regarding bonus for the year 1979-80 which was subject matter of present reference. This settlement was under section 12(3) of the Industrial Disputes Act. In the rejoinder, the workers assailed settlement on the ground that it was entered into by puppet union of the management. It was also termed a collusive settlement but during the proceeding, the General Secretary of the Union did not appear despite issue of summons nor any one appeared when the workers were called upon to adduce evidence. As is evident from the record that the settlement was arrived at by the intervention of the Deputy Labour Commissioner. There was of hardly any point to term it a collusive settlement. Further more, their Lordship of the Supreme Court held in 1981-II-LIJ Page 429 :—

"A settlement cannot be weighed in any golden scale and the question whether it is just and fair has to be answered on the basis of principles different from those which came into play where an industrial dispute is under adjudication. If the settlement has been arrived at by a vast majority of workmen with their eyes open and was also accepted by them in its totality. It must be presumed to be fair and just and not liable to be ignored merely because a small number of workers were not parties to it or refused to accept it or because the tribunal thought that the workers deserved marginally higher emoluments than they themselves thought they did".

Therefore, the workmen failed to discharge their burden of proof. The natural consequence of the proceedings was that the workmen were not entitled to any relief under the present reference.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 1193, dated the 24th November, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana, Faridabad.

M. KUTTAPPAN,

Commissioner & Secretary to Government, Haryana,
Labour and Employment Department.